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SUPREME COURT OF THE UNITED STATES.

No. 155.

CHARLES BELCHER & CO., PL'FFS IN ER.,

vs.

GEORGE C. LAWRASON, COLLECTOR OF THE PORT OF NEW ORLEANS.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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Circuit court of the United States, fifth circuit and eastern district of Louisiana.

Transcript.

No. 2,297. { CHARLES BELCHER & Co. vs. GEORGE C. LAWRASON, Collector, &c.

Petition filed 25th Feb'y, 1854.

To the honorable the judges of the United States Circuit Court for the eastern district of Louisiana:

The petition of Charles Belcher & Co., a commercial firm established in the city of New Orleans, and composed of Charles Belcher and George A. Belcher, of New Orleans, and Wm. H. Belcher, of St. Louis, Mo., respectfully represents, that George C. Lawrason, late collector of the port of New Orleans, and now a resident of the said city of New Orleans, is justly indebted to your petitioners in the sum of six thousand one hundred and fifty-nine 20-100 dollars, with six pr. ct. pr. an. interest thereupon, from the 2d day of September, 1852, until paid, for this, to wit: That the said defendant did, by color of his said office, unlawfully and unjustly exact from your petitioners, on various importations of goods by your petitioners made and entered at the United States custom-house at New Orleans, by various vessels and at various dates, from the 14th day of June to the 26th day of July, 1852, inclusive, over and above the just and legal duties, a penal and additional duty of twenty pr. ct., amounting in the aggregate to the said sum of $6,159 20 c. on the appraised valuations of said goods, on the illegal, unjust, and unfounded pretext that the said goods were undervalued in the entries thereof made by petitioners at the said custom-house, and that the appraised value of said goods exceeded by ten pr. centum or more the values thereof declared in the entries thereof at the custom-house made by petitioners as aforesaid; all of which will more fully appear by reference to the statement hereto annexed, and marked (A) for greater certainty, and the documents annexed, marked from 1 to 7, inclusive, being certified copies of entries of said goods, invoices, and appraiser's certificates.

Proceeding to state more specifically and in detail the particulars of said illegal exactions, these petitioners allege as follows, viz: That twelve hundred and seventy-four 60-100 dollars,

part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on 117 hhds. of re-boiled molasses, 450 bbls. of concentrated molasses, and 254 bbls. sugar-house molasses, imported from Matanzas, in the island of Cuba, in the brig Broome, and entered by petitioners at the said custom-house on the 14th day of June, 1852.

2d. That thirteen hundred and fifty-three 60-100 dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on 109 hhds. and 311 bbls. of concentrated molasses, 415 bbls. sugar-house molasses, and 24 bbls. re-boiled molasses, imported by petitioners on the American brig Denmark from Matanzas, in the island of Cuba, and entered at the custom-house at New Orleans on 14th day of June, 1852.

3d. That one hundred and seventy-nine 40-100 dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on one hundred and ninety bbls. sugar-house molasses imported by petitioners from Matanzas, in the island of Cuba, on the barque Almira, and entered in the custom-house at New Orleans on the 14th day of June, 1852.

4th. That eleven hundred and forty-five sixty-one hundredths dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty upon 427 bbls., cistern bottoms, and 363 bbls. sugar-house molasses, imported by by petitioners on brig Broome, from the said port of Matanzas, in the island of Cuba, and entered at the said custom-house in New Orleans, on the 14th day of June, 1852.

5th. That ninety dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on 50 bbls. cistern sugar imported by petitioners from Matanzas, in the island of Cuba, pr. barque Almira, and entered at the custom-house aforesaid, on the 10th day of July, 1852.

6th. That nine hundred and fourteen 20-100 dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on 255 bbls., cistern bottoms, and 492 bbls. sugar-house molasses, imported by petitioners from Matanzas, in the island of Cuba, pr. brig Denmark, and entered in the custom-house at New Orleans on the 12th day of July, 1852.

7th. That eleven hundred and ninety-nine 80-100 dollars, part of said sum herein demanded, was exacted from petitioners as an additional or penal duty on 420 bbls. cistern sugar, 464 bbls. sugar-house molasses, and 28 half barrels sugar-house molasses, imported by petitioners from Matanzas, in the island of Cuba, pr. brig Broome, and entered at the custom-house at New Orleans on the 26th day of July, 1852.

Petitioners further show that they paid the said several sums

exacted as additional or penal duties as aforesaid, in part on the 31st day of August, 1852, and the remainder on the 2d day of September, 1852, in order to get possession of their said goods on which said penal duties were exacted, the said defendant refusing to deliver them up to petitioners until the said penal duties were paid; and that petitioners, at and before the several payments of the said several sums paid as aforesaid as additional or penal duties on the said lots or parcels of goods, protested in writing against the said demands of said collector, herein defendant, by letters to him addressed by petitioners, and delivered, as illegal and unjust, notifying him therein that petitioners would hold him liable for the said sums thus unlawfully exacted; all of which will more fully by the receipt of said defendant for the said several sums of money paid as penal duties as aforesaid, and the letters of petitioners protesting against said penal duties in each case of their exaction, hereto annexed, for greater certainty for reference.

Now, your petitioners aver that the said Lawrason's pretence that the said goods had been undervalued in the entries thereof made by petitioner at the custom-house aforesaid, was wholly untrue and unfounded; that the values of said goods were fairly and justly stated in the entries thereof made by petitioners at the custom-house; and that the appraisements of said goods by the custom-house appraisers, in pursuance whereof said penal duties were exacted, were wrong, and afforded no warrant or justification for the exaction of said penal duties by the defendants.

Wherefore, petitioners pray that said defendant be duly cited and in due course of law condemned to pay petitioners their debts aforesaid, viz., $6,159.20, with 6 pr. ct. pr. an. interest thereon, from the 2d day of September, 1852, until paid, and costs of suit, and for general equitable relief.

(Signed) BENJAMIN, MICEU, & FINNEY,
Atty's for Petitioners.

Statement (A) filed with petition.

Statement of claim.

CHARLES BELCHER & Co.
against
GEORGE C. LAWRASON, Collector.

For *monies* illegally exacted as penalties or additional duties upon importations made in 1852, by C. B. & Co., for account of Belcher & Brother, of St. Louis, Mo.

Name of vessel.	Entry of vessel.	Entry of cargo.	Amount of penalty paid.
Brig Broome,	May 8th, 1852.	June 14th, 1852.	1,274 60
" Denmark,	" 17 "	" 14 "	1,353 60
Bark Almira,	" 29 "	" 14 "	179 40
Brig Broome,	June 14 "	" 14 "	1,145 60
Bark Almira,	July 10 "	July 10 "	92 00
Brig Denmark,	" 12 "	" 12 "	914 20
" Broome,	" 26 "	" 26 "	1,199 80
			$6,159 20

Interest from September 1st, 1852, January 11th, 1853.

CHARLES BELCHER & Co.

P. S. The first four sums above named were paid August 31st, 1852; the three last, Sept. 2d, 1852.

Exception, filed 18th April, 1854.

Circuit Court of the United States.

CHARLES BELCHER & Co.
vs.
GEORGE C. LAWRASON.

And now comes into court the said defendant, and excepts herein to plaintiffs petition, because the same show no cause of action against this defendant.

E. WARREN MORSE,
Attorney for Def't.

Supplemental petition, filed 19th June, 1854.

United States Circuit Court for the eastern district of Louisiana.

CHARLES BELCHER & Co.
vs.
GEORGE C. LAWRASON.

The plaintiffs herein, with the leave of the court, file this their supplemental petition, and respectfully represent to this honorable court, that the goods or merchandize described in the original petition, as having been entered in the port of New Orleans, on which the defendant exacted the penal duties as alleged in the original petition, on the ground of undervaluation in the entries made thereof at the custom-house in New Orleans, were not purchased by plaintiffs or their agents in

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the island of Cuba, but that they were manufactured by plaintiffs in said island, and were truly declared in the entries thereof to be goods not actually bought by plaintiffs or agents; and that, therefore, even if undervalued in the entries to the amount of ten pr. ct., which is not admitted, yet that such undervaluation afforded no warrant or justification for the exaction of said penal duties.

Wherefore plaintiffs pray judgment as in their original petition and for general relief.

(Signed) BENJAMIN, BRADFORD & FINNEY.

Exception and answer, filed 24th June, 1854.

Circuit Court U. S., fifth circuit and eastern district of Louisiana.

CHARLES BELCHER & Co.
vs.
GEORGE C. LAWRASON.

And the said defendant now comes into court and except to the supplemental for this, that said petition shows no cause of action against this defendant.

E. WARREN MORSE,
Att'y for Defd't.

And if said exception be not sustained, then the said defendant denies all the allegations in said petition contained, and prays to be hence dismissed with costs.

E. WARREN MORSE,
Att'y for Def't.

SUBMISSION OF CAUSE.

Minutes.—April Term, 1854.

New Orleans, Saturday, 24th June, 1854. Court met pursuant to adjournment. Present, Hon. I. A. Campbell, presiding judge; absent, Hon. Theo. H. McCaleb, district judge.

CHARLES BELCHER & Co.
vs.
GEORGE C. LAWRASON.

This cause was taken up by consent of parties and argued by E. W. Morse, U. S. att'y, and by Jno. Finney, of counsel for plaintiffs, and submitted to the court and taken under advisement.

Opinion on Exception, filed 13th Novr., 1854.

CHARLES A. BELCHER & CO.
vs.
GEORGE C. LAWRASON.

This is an action for the recovery of several sums of money paid by the plaintiffs to the defendant in his capacity of collector of the port of New Orleans, as penal duties assessed upon certain invoices of molasses and sugar imported in 1852 from Cuba to New Orleans, for an undervaluation to a greater amount than ten per cent.

The assessment at the rate of 20 p. c. on the appraised value, was paid by the plaintiffs under protest, who alleged that their invoice was exact, and that as manufacturers of the import they were not chargeable with this penal duty, even if there had been an undervaluation. These are the grounds taken in the present action.

The decisions of the Supreme Court have settled that the report of the official appraisers can only be corrected by an appeal to merchant appraisers, as prescribed by the act of 30th Aug., 1842, (5 Stat. at Large, 548, § 16 and 17,) and that it cannot be impeached for error in an action like this against the collector.

Rowkin *vs.* Hay, 4 How., S. C. R., 327.

Bartlett *vs.* Kane, 16 Howard, S. C. R.

The remaining question is one of some difficulty. The rate of duty in the presence instance was taken from the revenue act of 1846, (9 Stat. at Large, 42, § 8.) It is very clear that this section does not embrace the entry by a manufacturer who has produced the article imported. The provisions of that section refer exclusively to imports made by merchant importers, that is, purchasers. It therefore becomes necessary to inquire whether either of the earlier revenue acts sanction this change, in whole or for a part.

The acts of 1818 and 1823 introduced into our revenue system the mode of ascertaining the rate of duties upon imports on a home valuation by authorized appraisers. The 5th section of the act of 1823 (3 Stat. at Large, 729, § 13) describes the mode of assessing ad valorem duties, whether the import was purchased or obtained otherwise than by purchase. The forms of the oaths to be taken by the merchant importer or manufacturer are *separately* given, while the additional duty to result from a discrepancy exceeding a stated amount between the invoice and appraised value, is imposed upon each class of importers alike.

The act of the 19th May, 1828, 4 Stat., 270, contains an extension of the principles of home valuation, and exacts with more rigor an invoice exhibiting the true value of the import.

The 8th and 9th sections of that act deserve a particular notice, because they resemble so closely the 16 and 17 sections of the act of 1842, upon which the decision of this case turns, that the discussion of the one will illustrate the other.—(5 Stat., 563, §§ 16, 17.)

The eighth section provides *that in all cases* where the duty which now is or hereafter may be imposed any goods, wares, and merchandise imported in the U. S., when the duty is to be regulated by or to be estimated or levied upon the value of the square yard, or other parcel or quantity thereof; and in all cases when there is or shall be imposed any ad valorem rate of duty, it shall be the duty of the collector to cause the actual value thereof at the time purchased and place from which the same shall have been imported into the U. S., to be estimated, &c. The sections continues: "That it shall in every such case be the duty of the appraisers to appraise the true and actual value of the said goods at the time purchased, &c. The section proceeds to provide that manufacturers of wool imported in an unfinished state shall be taken to have been finished *at the time purchased*, and to be assessed accordingly. There is then a proviso that when goods shall have been imported into the U. S. from a country other than that in which the same were manufactured or produced, the appraisers shall value the same at the current value thereof *at the time of purchase.*

The next section provides that in all cases where the actual value to be appraised, *as hereinbefore stated*, of any goods imported into the U. S., shall by ten per cent. exceed the invoice value thereof in addition to the duty imposed by law on the same if they had been invoiced at their true value, there shall be *levied* on the import 50 p. c. of the duty so imposed on the same goods when fairly invoiced. There was a proviso to the effect that the penalty prescribed by the act of 1823 should not attach to goods subject to this additional duty.

This act applies only to the undervaluations made by merchant importers, and follows the distinction which was made by the act of 1818, in regulating the appraisers oath between "imports purchased" and those procured from other sources, and was recognized in the act of 1823 in various sections of that act, but which did not form therein the ground of a distinction in fixing the additional duty.

In this act the conditions on which the additional duty is imposed upon the merchant importer and the manufacturer or other owner of the article are materially different.

By the acts of 1830 and 1832, (4 Stat. at Large, 410 and 583,) the employment of the penal duty for the prevention of false valuations in invoices or entries was abandoned, and the acts of 1823 and 1828 which allowed it were repealed. The prin-

ciple of the home valuation was, however, retained in those acts and in the compromise act of 1832.—(4 Stat. at Large, 629, § 3.)

In the general act of August, 1842, (5 Stat. at Large, 548, § 16, 17,) this principle was re-instated. The 16th section of that act is similar in its language to the 8th section of the act of 1842. The 17th section commences with the re-enactment of the 8th section of the act of 1832, which is not found in the act of 1828. This provides that the appraisers, whoever they may be, might examine upon oath any owner, importer, consignee or other person touching any matter or thing which they may deem material in ascertaining the true market value or wholesale price of any import, to require the production of correspondence and invoices, the execution of depositions, additional penalties for false swearing, and for an appeal to merchant appraisers, when the importer has conformed to the act, and also for the conclusive operation of their award; provided "that *in all cases* where the actual value to be appraised, estimated, and ascertained as *hereinbefore stated*, of any goods imported into the United States and subject to any ad valorem duty, or whenever the duty is regulated by or directed to be imposed or levied on the value of the square yard or other parcel or quantity thereof, shall exceed by ten per centum or more the invoice value, then, in addition to the duty imposed by law upon the same, there shall be levied and collected on the same goods, wares and merchandize, fifty per centum of the duty imposed upon the same when fairly invoiced."

This proviso is identical with the 9th section of the act of 1828, exclusive of two important provisos. The words "hereinbefore stated" in the act of 1828, relate exclusively to the imports specified in the previous section, that is, to goods purchased.

The provisions to the 9th section of that act confirm that relation, and *difinitely* fix the additional duty upon the merchant importers only, whose invoices are *eroneous* or fraudulent.

The relation of the same words, as they occur in the 17 section of the act of 1842 to the preceding section, is not necessary or essential to find a satisfactory signification for them. These words are found in the *proviso* to a section which designates modes of proceedings to ascertain "the true market value or wholesale price of *any merchandize* imported" into the U. S., whether it may be in the principal markets of the country from which the same shall have been imported, or in the markets of their manufacture or production, and without reference to the time, whether of purchase or procurement, which affixes penalties upon neglects and for offences in the course of those proceedings, and declares their conclusive opera-

tion. The two sections contain allusions and prescriptions which connect with the whole subject of the assessment of duties by a domestic valuation, whether the imports are made by merchants, manufacturers or producers; and the penal duty must, I think, be charged to either of those who shall have failed in rendering a proper invoice.

There is a want of perspicuity in the arrangement of the provisions of the sections, as is attested by the numerous cases which have arisen upon them; but I think the intention of Congress to introduce the penal duty and to dispense with the forfeiture as a preventive of undervaluations, is manifested in these as well as other sections of the act of 1842.

The reduction of duties which took place in 1846, rendered the increase of the penalty which was made in the 8th section of the act of that year (5 Stat. at Large, 42, § 8) appropriate, and the discrimination against the merchant importer found in it originated, perhaps, in the facts which experience had disclosed.

My opinion is, that the additional duty provided by the act of 1842, is leviable upon goods imported by a manufacturer or person who has procured them otherwise than by purchase.

I have felt the full force of what is said by Mr. Justice Woodbury, in the case of Greely *vs.* Thompson, 10 Howard, S. C. R., and regret that I have had occasion to differ from one who has had such an enlarged experience in the administration of the revenue laws of the U. S. But it is obvious that the question before me was not presented in the record of that case, nor was it argued by counsel nor decided by the court. I must treat the question as unaffected by authority.

The duties assessed in the present case exceeded the penalty imposed by the act of 1842, and for the excess the action is maintainable.

The exception is consequently overruled.

JUDGMENT ON EXCEPTION.

Minutes.—November Term, 1854.

New Orleans, Monday, 13th November, 1854. Court met pursuant to adjournment. Present, Hon. J. A. Campbell, presiding judge; present, Hon. Theo. H. McCaleb, district judge.

CHARLES BELCHER & Co.
vs.
G. C. LAWRASON, Collector. } 2,297.

The exception herein filed by the *diffendant*, having been argued and submitted at the last term, the court this day delivered its opinion, and in conformity thereto, doth order that the said exception be overruled.

Agreement, filed 12*th May*, 1857.

U. S. C. Court.

BELCHER
vs.
LAWRASON.

In this case it is ascertained between the counsel for the respective parties, that upon the principles settled by the court in its judgment on the exception filed, the amount due to plff's, according to the custom-house entries and receipts on file, is fifteen hundred and thirty-nine 80-100 dollars.

It is therefore agreed that the case be submitted to the court for decision, with the understanding that it be put in such shape as shall entitle either party to prosecute a writ of error for the revision of the decision of the court on the questions determined by it in the opinion pronounced on the exception.

Statement of facts, filed 12*th May*, 1857.

CHS. BELCHER & CO.
vs.
GEO. C. LAWRASON.

In this case submitted to the court on the evidence filed by the pl'ffs, the court finds:

1st. That the pl'ffs imported into New Orleans, from the island of Cuba, the several cargoes of reboiled molasses, concentrated molasses, sugar-house molasses, cistern bottoms, and cistern sugars, fully set forth in the petition.

2d. That said importations were made on entries from which it appears that the importers were the manufacturers of the goods imported, and not purchasers thereof in the market.

3d. That upon the appraisement of the merchandise so imported as aforesaid, the value thereof was fixed by the appraisers at a sum exceeding the invoice value by more than ten per cent., and that no appeal from this appraisement was made by the importers to merchant appraisers.

4th. That the defendant thereupon exacted from the pl'ff a penal duty of twenty per centum on the appraised value of the merchandise imported, and that said penal duty so levied as aforesaid, amounted to the sum of $6,159.20.

5th. That said penal duty was paid under protest, as shown by the protests filed, which are made part of this statement of fact.

And the court being of opinion, for the reasons set forth in its decision, already made on the exceptions filed by defendant, that the said merchandise was not legally subject to a penal duty of twenty per centum on the appraised value aforesaid, but was legally subject to a penal duty of fifty per centum on the amount of duties which would have been property chargeable if the invoice had expressed the true value of the merchandise imported, and the excess of penal duty so charged as aforesaid being ascertained to amount to $1,539.80, which ought to be returned to plaintiff.

It is therefore ordered, &c., &c.

(Signed) J. A. CAMPBELL,
Associate Justice S. C. U. S.

Protest annexed to foregoing statement.

GEO. C. LAWRASON, ESQR.,
Collector at the port of New Orleans:

SIR: The undersigned, importers of one hundred and ninety barrels sugar-house molasses, from Matanzas per b'k Almira, entered at the custom-house hereon the 14th June last, which goods have been declared by the custom-house appraisers to be undervalued, are called upon by you to pay a penal or additional duty of 20 p. c. upon the appraised valuation.

We pay the amount demanded of us, protesting at the same time against the justice and legality of said demand. We protest against said demand as unjust and illegal, claiming that our entry of the goods in question, did give and express the full market value of said goods at the time and place of shipment, including all customary charges, and that the port of shipment is a principal market of the country of their production.

We protest against said demand as illegal, claiming that the tariff law of 1846, which imposes in certain cases an additional duty of 20 p. c., imposes it as duty, and recognizes no *seperation* of that from the original duty, which on these goods has been secured by bond to be paid in St. Louis.

We further protest against said demand as illegal, claiming that there is no law in existance authorizing and empowering the collector of customs, in any port of the United States, to demand and exact from importers who are owners and manufacturers of the goods imported, a penal or additional duty of 20 p. c. over and above the regular duty authorized by law on said goods.

We therefore hold you to be legally indebted to us for the sum of $179 40-100, (one hundred and seventy nine dollars and forty cents;) which amount we claim is now illegally exacted

from us, together with interest on the same at the legal rate until the whole shall be refunded to us.

(Signed) CHAS. BELCHER & CO.,

New Orleans, Aug't 31st, 1852.

(Signed) J. W. HINCKS,
Dep. Coll'r.

[Endorsed:]

CUSTOM-HOUSE, NEW ORLEANS,
Collector's Office, Sept. 8th, 1853.

I certify this to be a true copy from the original protest, presented to me on entry, and now on file in this office.

(Signed) J. W. HINKS,
Dep. Collector.

Protest annexed to foregoing statement.

GEO. C. LAWRASON, ESQR.,
Collector at the port of New Orleans:

SIR: The undersigned, importers of four hundred and twenty-seven barrels, cistern bottoms, and three hundred and sixty-three barrels sugar-house molasses, per Am. brig Broome, entered June 14th, 1852, which goods have been declared by the custom-house appraisers to be undervalued, are called upon by you to pay a penal or additional duty of 20 p. c. upon the appraised valuation.

We pay the amount demanded of us, protesting at the same time against the justice and legality of said demand; we protest against said demand as unjust and illegal, claiming that our entry of the goods in question did give and express the full market value of said goods at the time and place of shipment, including all customary charges, and that the port of shipment is a principal market of the country of their production; we protest against said demand as illegal, claiming that the tariff law of 1846, which imposes, in certain cases, an additional duty of 20 p. c., imposes it as duty, and recognizes no *seperation* of that from the original duty, which on these goods has been secured by bond to be paid in St. Louis.

We further protest against said demand as illegal, claiming that there is no law in existance authorizing and empowering the collector of customs in any port of the United States to demand and exact from importers, who are owners and manufacturers of the goods imported, a penal or additional duty of 20 p. c. over and above the regular duty authorized by law on said goods.

We therefore hold you to be legally indebted to us for the

sum of $1,145.60—eleven hundred and forty-five dollars and sixty cents; which amount we claim is now illegally exacted from us, together with interest on the same at the legal rate until the whole shall be refunded to us.

(Signed) CHAS. BELCHER & Co.

New Orleans, Augt. 31st, 1852.

(Signed) J. W. HINCKS,
Dep. Coll.

[Endorsed.]

CUSTOM-HOUSE, NEW ORLEANS,
Collector's Office, Sepr. 8th, 1853.

I certify this to be a true copy from the original protest presented to me on entry, and now on file in this office.

(Signed) J. W. HINCKS,
Dep. Collector.

Protest annexed to foregoing statement.

GEO. C. LAWRASON, Esqr.,
Collector at the port of New Orleans:

SIR: The undersigned, importers of one hundred and nine hhds. and three hundred and eleven barrels concentrated molasses, four hundred and fifteen barrels sugar-house molasses, and twenty-four barrels re-boiled molasses, per Ame. brig Denmark, entered at the custom-house here June 14th, 1852, which goods have been declared by the custom-house appraisers to be undervalued, are called upon by you to pay a penal or additional duty of 20 p. c. upon the appraised valuation. We pay the amount demanded of us, protesting at the same time against the justice and legality of said demand.

We protest against said demand as unjust and illegal, claiming that our entry of the goods in question did give and express the full market value of said goods at the time and place of shipment, including all customary charges, and that the port of shipment is a principal market of the country of their production.

We protest against the demand as illegal and unjust, claiming that we have the right under the existing revenue laws of making such additions to the invoice valuation of our goods at the time of making our entry as we may deem right and proper, which privilege we did claim in this cause, and which you denied to us.

We protest against such demand as illegal, claiming that the tariff law of 1846, which imposes in certain cases an additional

duty of 20 p. c., imposes it as duty, and recognizes no *seperation* of that from the original duty, which in these goods has been secured by bond to be paid in St. Louis.

We further protest against said demand as illegal, claiming that there is no law in existance authorizing and empowering the collector of customs in any part of the United States to demand and exact from importers who are owners and manufacturers of the goods imported, a penal or additional duty of 20 p. c. over and above the regular duty authorized by law on said goods.

We therefore hold you to be legally indebted to us for the sum of $1,353.60, (thirteen hundred and fifty-three dollars and sixty cents;) which amount we claim is now illegally exacted from us, together with interest on the same at the legal rate, until the whole shall be refunded to us.

(Signed) CHAS. BELCHER & Co.

New Orleans, Augt. 31st, 1852.

(Signed) J. W. HINCKS, *Dep. Coll.*

[Endorsed.]

CUSTOM-HOUSE, NEW ORLEANS,
Collector's Office, Sept. 8th, 1853.

I certify this to be a true copy from the original protest presented to me on entry, and now on file in this office.

(Signed) J. W. HINCKS, *Dep. Collector.*

Final Judgment.

Circuit Court of the United States, fifth circuit and eastern district of Louisiana, April term, A. D. 1857.

New Orleans, Tuesday, 12th May, A. D. 1857. Court met pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge; present, Hon. J. A. Campbell, presiding Judge.

CHARLES BELCHER & Co.
vs.
GEO. C. LAWRASON, Collector, &c.

By consent of parties, J. P. Benjamin, esq., for plaintiffs, and F. H. Clack, esqr., U. S. attorney for defendant, this cause was submitted to the court, and without argument. Whereupon, on consideration thereof, and by reason of the law and the evidence being in favor of the plaintiffs, it is ordered, adjudged, and decreed that the said plaintiffs, Charles Belcher & Co., do have and recover judgment against the defendant, Geo. C. Lawrason, late collector of the port of New Orleans, for the sum of fifteen hundred and thirty-nine dollars and eighty cents, with

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interest thereon at the rate of six per cent. per annum from the 2d September, 1852, until paid, and costs of suit.

Judgment rendered 12th May, 1857. Judgment signed 20th May, 1857.

(Signed) J. A. CAMPBELL,
Associate Justice S. C. U. S.

Petition for writ of error and order, filed 8th August, 1857.

To the Hon. the Circuit Court of the United States, for the fifth circuit and eastern district of Louisiana.

The petition of Charles Belcher & Co. respectfully represents, that they are aggrieved by the judgment herein rendered on the 20th May, 1857, and that they are advised that there is error therein to their prejudice, and they are desirous that the same should be reviewed by the Supreme Court of the United States; wherefore, they pray that a writ of error be allowed them, returnable to the next December term of the Supreme Court of the United States, upon their giving bond with good and solvent security in the penal sum of five hundred dollars, conditioned according to law.

(Signed) BENJAMIN BRADFORD, & FINNEY,
For CHARLES BELCHER & Co.

Order.

Let a writ of error be allowed as prayed for, on plaintiffs giving bond with good and solvent security thereon, in the penal sum of five hundred dollars.

(Signed) THEO. H. McCALEB,
U. S. Judge.

Appeal Bond, field 9th Sept., 1857.

Know all men by these presents, that we, Charles Belcher, Geo. A. Belcher, and W. H. Belcher, composing the firm of Chas. Belcher & Co., as *principles*, and W. S. Brown, as surety, are held and firmly bound unto George C. Lawrason, collector of the port of New Orleans, La., in the full and just sum of five hundred dollars, to be paid to the said George C. Lawrason, collector, &c., his certain attorney, executors, administrators, or assigns; to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this 7th day of September, in the year of our Lord one thousand eight hundred and fifty-seven.

Whereas, lately at a circuit court of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, at the city of New Orleans, in a suit depending in said circuit court, wherein Charles Belcher & Co. were plaintiffs, and George C. Lawrason, collector, &c., was defendant, judgment was rendered against the said Charles Belcher & Co., plaintiffs in this, that it was for a much less amount than that claimed; and the said Charles Belcher & Co. having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said George C. Lawrason, collector, &c., citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next.

Now, the condition of the above obligation is such, that if the said Charles Belcher & Co. shall prosecute their writ to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

(Signed) CHARLES BELCHER & Co., [SEAL.]

Sealed and delivered in the presence of—

For JNO. B. MURISON.

W. S. BROWN, surety. [SEAL.]

[Endorsed.]

W. S. Brown, surety, hereon being duly sworn, deposes and says, that he is worth the sum of five hundred dollars over and above all his debts and liabilities.

W. S. BROWN.

Sworn to and subscribed before me this 9th Sept., 1857.

J. W. GURLEY,
U. S. Court.

United States of America, Circuit Court of the United States, fifth circuit and eastern district of Louisiana.

CLERK'S OFFICE:

I, John W. Gurley, clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, do hereby certify, that the foregoing 23 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had on the trial of the case of Charles Belcher & Co. *vs.* George C. Lawrason, collector, &c., No. 2,297 of the

docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 27th day of October, A. D. 1857.

[SEAL.]

J. W. GURLEY,
Clerk.
By W. LAVISSON,
Dep. Clerk.

United States of America, ss.

The President of the United States to the honorable the judges of the Circuit Court of the United States in and for the fifth circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or one of you, between Charles Belcher & Co., a commercial firm, composed of Charles Belcher, George A. Belcher, and William H. Belcher, and George C. Lawrason, collector of the port of New Orleans, a manifest error hath happened, to the great damage of the said Charles Belcher & Co., as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the honorable R. B. Taney, chief justice of the said Supreme Court of the United States, this 21st day of August, in the year of our Lord one thousand eight hundred and fifty-seven.

J. W. GURLEY,
Clerk of the United States Circuit Court
for eastern district of Louisiana.